

THE RISE IN ORGANIZED RETAIL CRIME AND THE THREAT TO PUBLIC SAFETY

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME AND FEDERAL
GOVERNMENT SURVEILLANCE

OF THE

COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

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C O N T E N T S

TUESDAY, JUNE 13, 2023

	Page
OPENING STATEMENTS	
The Honorable Andy Biggs, Chair of the Subcommittee on Crime and Federal Government Surveillance from the State of Arizona	1
The Honorable Eric Swalwell, a Member of the Committee on the Judiciary from the State of California	4
WITNESSES	
The Hon. Kris Kobach, Attorney General, Kansas	
Oral Testimony	6
Prepared Testimony	9
Lorie Mohs, Newark, California	
Oral Testimony	13
Prepared Testimony	15
John Flynn, President, National District Attorney Association	
Oral Testimony	18
Prepared Testimony	20
The Hon. John Milhiser, Former United States Attorney, Central District, Illinois	
Oral Testimony	27
Prepared Testimony	29
LETTERS, STATEMENTS, ETC. SUBMITTED FOR THE HEARING	
All materials submitted for the record by the Subcommittee on Crime and Federal Government Surveillance are listed below	47
Materials submitted by the Honorable Andy Biggs, Chair of the Subcommittee on Crime and Federal Government Surveillance from the State of Arizona, for the record	
A statement from the National Retail Federation, June 13, 2023	
A letter from Shawn Gale, Vice President & Chief Legal Officer, CHEP USA, June 12, 2023	
An article entitled, "Serial Retail Theft Suspect: Milwaukee DA Fails to Charge at Least 14 Cases [NO PROCESS FILES]," Dec. 22, 2021, Wisconsin Right Now, submitted by the Honorable Tom Tiffany, a Member of the Subcommittee on Crime and Federal Government Surveillance from the State of Wisconsin, for the record	
Materials submitted by the Honorable Sheila Jackson Lee, Ranking Member of the Subcommittee on Crime and Federal Government Surveillance from the State of Texas, for the record	
A letter from Trevor Wagener, Chief Economist and Director, Research Center, Computer & Communications Industry Association, June 9, 2023	
An article entitled, "The Great Shoplifting Freak-Out: Why is it so hard to figure out if America's enormous surge in theft is real?," Dec. 23, 2021, The Atlantic	
A statement from the Honorable Sheila Jackson Lee, Ranking Member of the Subcommittee on Crime and Federal Government Surveillance from the State of Texas	

THE RISE IN ORGANIZED RETAIL CRIME AND THE THREAT TO PUBLIC SAFETY

Tuesday, June 13, 2023

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT
SURVEILLANCE

COMMITTEE ON THE JUDICIARY

Washington, DC

The Subcommittee met, pursuant to notice, at 2:39 p.m., in Room 2141, Rayburn House Office Building, Hon. Andy Biggs [Chair of the Subcommittee] presiding.

Present: Representatives Biggs, Tiffany, Moore, Kiley, Lee, Fry, Jackson Lee, Dean, and Cicilline.

Also present: Representative Swalwell.

Mr. BIGGS. The Subcommittee will come to order.

Without objection, the Chair is authorized to declare a recess at any time.

We will now have the Pledge of Allegiance led by Representative Moore from Alabama.

ALL. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all.

Mr. BIGGS. Thank you, Mr. Moore.

We welcome everyone to today's hearing on organized retail crime and threats to public safety.

Without objection, the gentleman from California, Mr. Swalwell will be permitted to participate in today's hearing.

I will now recognize myself for an opening statement.

I'm pleased to be here at the Subcommittee hearing. I'm grateful to all the witnesses for being here. The topic before us today is a hearing titled "The Rise in Organized Retail Crime and the Threat to Public Safety."

Organized retail crime is a growing threat to our retailers and their employees, our law enforcement, and our communities. The fact that we are having this hearing in some ways is very disappointing. We used to be a country that adhered to the rule of law. We used to be a country of sharing and a sense of trust and respect for our fellow Americans, and that trust and respect in many respects seems to be gone, and so too is the rule of law. When the rule of law is gone, it threatens our very freedom.

Three years ago during the summer of love our country burned and our stores were looted. Consequences seemed to have been few. Organized retail crime has become a growing problem over these past three years because criminals see the opportunity for profit and know they can get away with it.

Lululemon—I'm not even sure how you say that. Yes, Lululemon, yes. I actually think I had a relative who worked for Lululemon. Anyway, nonetheless, Lululemon CEO Calvin McDonald stood by the retailer's recent decision to fire two employees who tried to intervene during a theft at one of its stores.

California is in the process of passing laws prohibiting retail employers from training employees to actually intervene in shoplifting and active shooters. That's their SB-553.

We are coddling criminals and flaming the flames of this problem, and it is open season on our stores. Criminal syndicates are taking advantage.

The National Retail Federation found that eight in ten retailers said that violence and aggression associated with organized retail crime incidents increased in the past year. Organized retail crime can happen in as little time as just two minutes.

A CVS executive recently testified that organized retail crime events are reported in a CVS pharmacy store every three minutes. In just two minutes, the average professional thief targeting CVS steals \$2,000 worth of goods; two minutes, \$2,000 worth of goods. These are not cases of simple shoplifting.

The Biden Administration and rogue Democrat prosecutors have eroded law and order in this country creating an environment where retail workers are terrified to go to work. The rise in organized retail crime is causing businesses to close and endangers the public.

Walmart, for example, is losing \$3 billion per year in U.S. revenue due to theft and is considering closing stores and increasing prices due to the severity of theft across the country.

Who pays the price? Well, consumers do. Consumers are paying to cover the losses by retailers. With Biden's historic inflation, that becomes an extra challenge, particularly for those who are poor.

Let's hear how retail CEOs and others in the retail industry State the problem. Bob Nardelli, the former Home Depot COE, stated:

Today this thing is an epidemic. It's spreading faster than COVID. The degree of severity now is not just theft. It's smash and grab. Our associates are afraid. The retail salespeople are afraid. Consumers are afraid. We've got to get control of this. If the administration doesn't get control of this, they're abdicating it to the businesses, both public and private.

Bob Eddy, BJ's CEO, stated:

Organized retail crime is definitely a thing. We see it, and it is material. It is a much more poignant problem in certain places, particularly on the West Coast or places like Chicago or Albuquerque that have blue State or local blue governments that don't really feel like prosecuting crime.

We have a poster behind me. Ira Kress, President of Giant Food, has posted this particular message in his supermarkets:

You may notice changes to your checkout experience as you are shopping with us today. Due to a significant increase in crime and theft that we and many other retailers are experiencing across our market area, we have made several changes to operating procedures to mitigate the impact of

theft to our business. We know that these changes may cause some inconvenience or be disruptive to the experience you're used to, and I assure you we are making these changes out of necessity to prioritize the safety of our associates and customers.

He has further said:

To State that theft has risen tenfold in the last five years would not be an understatement. It has increased exponentially. The last thing I want to do is close stores, but I've got to be able to run them safely and profitably.

That's exactly what's happening. These retailers are closing stores, costing our communities' jobs, and reducing Americans' access to basic commodities.

Retailers are forced to raise their costs or close stores. That's particularly true in communities that can least afford higher price of goods or scarcity of opportunity to get those goods. It is allowed by the Americans who pay the price, not the criminals.

Walmart decided to shut down 17 of its stores after CEO Doug McMillon warned that theft was the highest it's ever been around the country, including closing half of its Chicago stores where thefts are up 25 percent, according to the Chicago Police Department, while robberies are up 11 percent.

Walmart has also permanently closed stores due to retail theft in South Bend, Indiana; Milwaukee, Wisconsin; Honolulu, Hawaii; Albuquerque, New Mexico; Washington, DC; and Atlanta, Georgia.

Target has seen \$400 million in lost profits in 2022 due to organized gangs of shoplifters and has permanently closed stores in College Park, Maryland; Minneapolis, Minnesota; and Philadelphia, Pennsylvania.

Walgreens has closed five locations in crime-ridden San Francisco and others in Chicago, Houston, and Orlando.

Macy's a three-year plan to close 125 stores, citing increases in retail crime which has resulted in drops in profits.

Best Buy is closing 20 stores a year for the same reason.

Bed Bath & Beyond has identified 416 of its 1,500 stores for closure.

Unfortunately, some retailers and prosecutors are more interested in protecting criminals than they are protecting their own employees. It is clear that some prosecutors and bail reform laws in Democrat-run cities and States are emboldening criminals and fueling a rise in organized retail crime. We've even heard it from our own witnesses during the violent crime field hearing we had in Manhattan earlier this year. Democrat city Councilman Robert Holden provided a grim description of everyday life in Manhattan when he said:

Mentally ill homeless people verbally and physically attack people randomly in the streets and in the subway. Pharmacies lock up their products. The police officers also feel pressure to undercharge perps they arrest. This is a daily reality in New York.

Criminals know they can avoid prosecution and incarceration if they stay below the felony threshold. In jurisdictions with rogue prosecutors who do not prosecute misdemeanor theft, criminals can steal just below the threshold and avoid prosecution altogether.

This has been a problem in California especially, where many jurisdictions have rogue prosecutors. In 2014, voters in California

passed a law which raised the felony threshold for theft from \$400–\$950 in the State.

Lowering felony thresholds would not be needed if prosecutors actually prosecuted misdemeanors and lax bail reform laws did not let criminals go free. Broken window policing does work. Instead, we are seeing lax and, in some cases, nonexistent prosecution grow a new generation of criminals.

The rise in organized retail crime in California comes as the California legislature is advancing a bill that would prevent retail staff from even stopping thieves from stealing inside stores. The legislation has passed the State Senate and is pending in the State Assembly. California Retailers Association panned the legislation as an invitation for criminals to come in and steal. Not weeks after the tragic death of Blake Mohs did the California State Senate pass this disgraceful legislation. Employees cannot intervene in crimes, and criminals can steal up to \$900 in goods with impunity.

So, why would you open a store in California? Well, you wouldn't. That's why so many retailers have left these Democrat-run cities. Thankfully, some States are actually stepping up to the plate to combat these violent criminal enterprises.

The State of Kansas signed into law Senate Bill 174. Among other provisions, the law authorizes the Kansas Attorney General's office to be the primary prosecutor in the State for crimes such as ORC that occur in two or more counties. More than 30 States have actually passed anti-ORC law.

While I assert that this is largely a State and local issue, it is important for us to understand that these ORC cartels are crossing State lines. Federal laws that can be used in prosecution of these include 18 U.S.C. 2314, interstate transfer of stolen property; 18 U.S.C. 96, RICO; and 18 U.S.C. 1956.

I'm glad we have States that understand the growing threat of organized retail crime in their communities and are willing to hold these criminals accountable. It's time we fight back against organized retail crime. It has to be stopped. Criminals must be penalized, and prosecutors need to be held responsible for failing to protect their communities from this violent crime. We must restore law and order to our communities and make America safe again.

I'm going to submit two letters for the record: (1) From the National Retail Federation dated June 13, 2023, talking about the rise in organized retail crime, and (2) CHEP, which is CHEP USA, in response to our notice of this hearing. They will be admitted without objection.

So, ordered.

Our Ranking Member is not here. We will save time for her to speak when she gets in. I don't see either the Ranking Member or the Chair of the Full Committee, so we will go—I'm going to recognize the gentleman from California, Mr. Swalwell.

Mr. SWALWELL. Thank you, Chair. Thank you for inviting Ms. Mohs of Newark, California, who lost her son, Blake, eight weeks ago today. Ms. Mohs will tell Blake's story momentarily. I just want to express to Ms. Mohs on behalf of the 14th Congressional District and my family our deepest sympathies for the loss of Blake, such an extraordinary young man who was to be engaged—or who was to be married this summer who we lost at 26 years old,

an Eagle Scout which we know is one of the most elite clubs anyone can be a part of, somebody who anyone who knew him, he lit up their world.

My promise to you as the representative of Pleasanton, California, where his murder took place is to be an advocate for justice, not only for Blake and to make sure that justice is served in this case, but that we do address retail crime in this country.

I have worked with our FBI field office for many years about trying to lend more Federal resources to local law enforcement so that they can crack down on retail crime.

I will also say personally, my father was not only a police officer but when he retired a loss prevention agent. I know what loss prevention agents like Blake encounter every day.

So, again, just on behalf of my office, thank you for coming here. I know it's not easy. We look forward to hearing you tell Blake's story and make sure that justice is served.

I yield back.

Mr. BIGGS. Thank you, Mr. Swalwell. Thank you for being here with us today.

Again, Ms. Mohs, thank you. We appreciate it so much.

So, I'm going to begin now by introducing our witnesses, all who were gracious enough to come and testify before this Committee on this important issue.

The first we have is the Hon. Kris Kobach. Mr. Kobach is the Attorney General of Kansas and previously served as the Secretary of State of Kansas. He graduated from Harvard University, received his J.D. from Yale University, and received a Ph.D. from the University of Oxford. He clerked on the Tenth Circuit Court of Appeals, taught Constitutional law at the University of Missouri Kansas City School of Law, and served in the Department of Justice during the George W. Bush Administration. Thank you for being here, Mr. Kobach.

Ms. Lorie Mohs is the mother of Blake Mohs. Blake was shot and killed during an attempted shoplifting at a Home Depot just a few weeks ago. Her son was a loss prevention employee and was just 26 years old. The alleged murderer had prior convictions for theft and fled the scene with her boyfriend and toddler. She was arrested later by a police officer. I appreciate Mr. Swalwell's kind introduction of you as well.

The Hon. John J. Flynn is currently serving his second term as the District Attorney of Erie County, New York. Prior to his election he worked in private practice as a personal injury attorney and was a lecturer at SUNY Buffalo State. Mr. Flynn served in the Navy during the Gulf War and later in the Judge Advocate General's Corps after receiving his law degree. He currently serves as the president of the National District Attorneys Association.

Welcome and thank you for your service, Mr. Flynn.

The Hon. John Milhiser. Mr. Milhiser is the former U.S. Attorney for the Central District of Illinois. He previously served as the State's Attorney for Sangamon County—did I say that right—Sangamon County, Illinois. Since leaving the U.S. Attorney's office, he has founded the American Center for Law and Public Safety with other former U.S. attorneys. The center is a bipartisan organization dedicated to safeguarding the rule of law, civil liberties, and the

Constitution through education, research, recruitment, and advocacy.

We thank you, Mr. Milhiser, for being here.

We'll now begin by asking you to please stand, and I will swear you in. If you each would please stand and raise your right hand.

Do each of you swear or affirm, under penalty of perjury, that the testimony you are about to give is true and correct to the best of your knowledge, information, and belief, so help you God?

Let the record reflect that each of the witnesses has answered in the affirmative. Please be seated. Thank you.

Please know we have received your written statements. They're all going to be made part of the record in their entirety. Therefore, we ask that you summarize your testimony in five minutes. I don't know if we have a yellow and a light to let you know when you're getting to the last minute or so, but I will probably start tapping here when you have about 10 or 15 seconds to go so you know it's time to wrap up.

Thank you each, and we'll start with you, Mr. Kobach.

STATEMENT OF THE HON. KRIS KOBACH

Mr. KOBACH. Thank you, Mr. Chair, and thank you, Members of the Committee, for—

Mr. BIGGS. Is your mic on?

Mr. KOBACH. Can you hear me? Oh, there we go.

Thank you, Mr. Chair, and thank you, Members of the Committee, for addressing this important topic.

The amount of retail crime in Kansas is surprisingly high. We are among the top ten States hit by—in terms of dollars stolen in organized retail crime, but we're not in the top ten in violent crimes or gun crimes or many other categories of crimes, and the reason most law enforcement give for that is the I-70 corridor. Kansas and Missouri are both in the top ten. The other States in the top ten are ones you would expect, like California, Texas, Florida, and some of the very large, more populous States.

The I-70 corridor is a pipeline not only for organized retail crime, but also for drugs. There's often a great deal of overlap between drugs and organized retail crime because the drug addicted are often recruited as boosters by the people who run the organized crime rings or networks.

I thought I would give you some typical cases from Kansas which I believe are typical not only of our State, but of most States where organized retail crime is an issue, which is increasingly all the States.

Recently, we saw the guilty plea of Frank Santa Maria in March 2023 in Kansas City. He owned a pawn shop which was the hub of the organized crime network. Pawn shops are very frequently the hub of these networks. He had four boosters who stole merchandise for him. He then sold the stolen products on eBay pages. More than \$100,000 in stolen products were sold for a total of over \$3 million. Just to give you a glimpse of what his network looked like, they stole from Home Depot, Lowe's, Walmart, Target, Walgreens, and CVS. The stolen products included ink cartridges, Spypoint cameras, Nikon rangefinders, electric fence systems, Rogaine products, Nicorette products, over-the-counter supple-

ments, and Crest Whitestrips. Because the crimes were sold in both Kansas and Missouri creating interstate nexus and because the amount stolen was over \$250,000, which is usually the threshold these days for Federal prosecutors, Federal prosecutors were interested, and the case was brought in Federal court.

Another case in the Kansas City area, Dennis Russell pled guilty in a similar scheme. Again, a pawn shop was the hub of the organized retail crime network, 14,000 stolen items, for a total of over \$740,000 and sold on eBay. The types of stolen items were a little bit different: Robot vacuum cleaners, television streaming devices, and, yes, textbooks. Similar network of a group of four to eight boosters centered on a pawn shop.

In another case, in a different case in Kansas, this one without the interstate nexus, again, the retail crime organization focused on a pawn shop stealing over \$200,000 from predominantly box stores. It's a fairly common pattern. So, to summarize some of the commonalities, you typically see box stores being hit two to three times a week. The fence at the center is usually—or in Kansas is usually a pawn shop, but oftentimes it's just a warehouse that's used to move the goods. Almost all the products are sold online.

The factors in the legal system that are exacerbating this problem:

- (1) Many of the cases do not get prosecuted. A huge number do not get prosecuted due to the lack of prosecutorial capacity at the county level. Many DAs simply have too large a stack of crimes. Nonperson crimes like this get moved to the bottom of the stack and, consequently, don't get prosecuted.
- (2) Compounding this is a lack of prosecutorial capacity, which one of the other witnesses may be able to address, at the Federal level. In our area they have a \$250,000 threshold. If you can't show that 250 grand has been shown in your network of stores, then you're not going to get your case prosecuted.
- (3) Investigative capacity is also limited. Police departments only have a limited number of detectives, and if you've got multiple stores getting hit multiple times each day, they don't have the capacity to investigate all of them.
- (4) On top of that, there's a problem in the courts. Many courts are setting bail too low for the criminals, much lower than they did in the past. On top of that, bail bondsmen today are willing to accept a much lower percentage of the bail amount than they were, say, 20 or 30 years ago. As a combination of those two things, it's highly likely that the booster will be back out on the street before the end of the day.

Policy recommendations: In Kansas, as the Chair mentioned, we try to bring State prosecution to bear where more than one county is involved in a course of criminal conduct. I think the Federal legislation before this Committee is a very good step. I would also encourage, to the extent it's possible, U.S. Attorney prosecutors to lower that threshold from \$250,000.

I just want to summarize by saying we've talked about the economic consequences, but there's a bigger consequence, and that's the degradation of the rule of law.

I just want to end with a quick story. I went into a Walgreens recently and talked to a clerk, and her store is hit two to three times a day. I asked her what she does. She said,

... well, she finally decided to start following the boosters through the store, heckling them and harassing them against store policy.

I asked her why she did that. She said because she,

... can't stand what's happening to the reputation of her store and her neighborhood. She is fighting to preserve our culture where the rule of law is intact.

[The prepared statement of the Hon. Kobach follows:]



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Testimony of Kansas Attorney General Kris W. Kobach

**United States House
Subcommittee on Crime and Federal Government Surveillance,
Committee on the Judiciary**

**Hearing on Organized Retail Crime and the Threat to Public Safety
June 13, 2023**

Overview

When one thinks about the explosion of organized retail crime in the United States, the State of Kansas may not intuitively jump to mind. But Kansas is particularly illustrative for two reasons: Kansas is one of the hardest hit states, and we are attempting solutions that other states have not yet tried.

The amount of organized retail crime in Kansas is very high. Kansas is among the top ten states hit by organized retail crime, with approximately \$642 million in products stolen in 2021. When you look at the map of states that have been hit the hardest, you see some states you would expect in the top ten, like California, Texas, and Florida. But you also see two midwestern states—Kansas and Missouri—in the top ten. The reason is almost certainly the I-70 corridor, which has become a pipeline not only for drugs, but also for organized retail crime. There is a link between drug trafficking and organized retail crime. The drug-addicted often become boosters in order to feed their habits, and some fences recruit them specifically. As a result, their role in perpetrating the thefts is significant in many retail crime organizations.

Typical Cases

In the Kansas City area, the prosecution and guilty plea of Frank Santa Maria in March 2023 is illustrative. Santa Maria operated a pawn shop which served as the hub of the organized retail crime network, which also included four boosters who stole the merchandise and for who Santa Maria served as the fence. He sold the stolen products on multiple eBay pages. The more than 100,000 stolen products were sold for a total of over \$3 million. The stores from which the goods were stolen included Home Depot, Lowe's, Walmart, Target, Walgreens, and CVS. The stolen products included ink cartridges, Spypoint cameras, Nikon rangefinders, electric fence systems, Rogaine products, Nicorette products, over-the-counter supplements, and Crest Whitestrips. Because the crimes were both in Kansas and Missouri, providing an interstate nexus, and because the amount stolen was over \$250,000, federal prosecutors were interested; and the case was brought in federal court.

In another Kansas City area case in the same month, Dennis Russell pled guilty regarding a similar scheme. In his case, he owned a pawn shop that fenced more than 14,000 stolen items for a total of \$744,000, mostly on eBay. The targeted stores in Kansas and Missouri were the same. But the stolen items were somewhat different in nature, including robot vacuum cleaners, television streaming devices, and textbooks. Russell knew that the items were stolen and operated a in a network with multiple boosters. Federal prosecutors were involved in this case too.

In another case in a different city in Kansas—one without the interstate nexus—the retail crime organization also centered on a pawn shop, with multiple boosters fencing at that shop. The total was over \$200,000. Again, large box stores were the target of the criminal enterprise.

There are some common features of these criminal enterprises:

1. The boosters almost always steal a dollar amount just below the felony theft level. In Kansas, they steal roughly \$900 to stay below the \$1,000 threshold.
2. The boosters usually operate through “pushouts” or “rollouts,” loading a cart with merchandise and then pushing out the door, knowing that the policy of the corporation prohibits staff from stopping them. With this brazenness comes increased violence, with boosters sometimes assaulting or even using pepper spray against store personnel who dare to intervene.

3. Boosters will hit the same specific store with impunity, sometimes as frequently as 2-3 times per week.
4. The fence at the center of the enterprise is often a pawn shop, but in many instances the fence operates out of a warehouse.
5. Almost all of the stolen products moved by the fences are sold online.
6. The stolen products change over time, as retailers lock up what was previously targeted. Power tools used to be favored, but when the box stores locked them up, the criminal enterprises moved on to other items.

Factors in the Legal System that Exacerbate the Problem

One of the principal reasons that organized retail crime has expanded so quickly is that so many cases do not get prosecuted. That is largely due to the lack of prosecutorial capacity. There is a shortage of prosecutors in most counties. Consequently, property crimes get moved to the bottom of the stack, below person crimes that tend to have a higher profile and present a greater threat to the safety of the community. Compounding this lack of capacity at the county level is a lack of willingness by U.S. Attorneys' offices to prosecute any case that involves less than \$250,000, even if the criminal enterprise crosses state lines.

Investigative capacity is also limited. Police departments are often overwhelmed as multiple boosters hit multiple stores throughout a city every day. There are only so many detectives, and the rate of retail thefts is increasing, not decreasing.

In many jurisdictions, courts are setting bail too low for those criminals who are charged. On top of that, the bail bondsmen are today willing to accept a much lower percentage of the bail amount from the defendant than they were twenty years ago. Consequently, the booster ends up back on the street very quickly even if he is arrested.

Policy Recommendations

In Kansas, we have addressed the lack of prosecutorial capacity by stepping in at the state level. In the 2023 legislative session, I asked the state legislature for original prosecutorial authority in all cases where a course of criminal conduct occurs in two or more counties. This allows my prosecutors to prosecute cases

with state resources where a county or district attorney does not have the capacity to prosecute. That bill (Kansas S.B. 174) was signed into law on May 11, 2023. Kansas is the first state in the country to adopt this measure.

At the federal level, legislation like that before this committee is an important step in bringing more prosecutorial resources to the table, where the criminal enterprise involves multiple states. I would also encourage U.S. attorneys' offices not to set such high dollar thresholds for getting involved. That also restricts federal investigative resources. Right now, at least in our part of the country, unless the retail victims can show at least \$250,000 in total thefts, the relevant U.S. attorney's office refuses to allow FBI or DHS resources to be allocated to the case.

Conclusion

Organized retail crime is a problem that is getting worse, not better. And it does not exist in a vacuum. These criminal enterprises often overlap with the trafficking of drugs. In some cases, human trafficking is also involved. In some states, particularly in border states like Texas, the stolen materials are fenced by Mexican cartels. In short, the criminal impact of organized retail crime is larger than just the stolen retail items.

In addition, the economic consequences are greater than just the amount of stolen merchandise. Some \$6.6 billion in state sales taxes are lost and \$15.0 billion in local sales taxes are lost annually. Thousands of jobs are lost when retailers are forced to close the stores that are hit the hardest. In addition, the prices of many consumer goods are driven upwards as retailers compensate for their losses, contributing to the inflation that is eroding the income of every American household.

Finally, there is an additional consequence that is equally, if not more, important: the degradation of the rule of law in America. Our culture and our country suffer when widespread retail theft proliferates and is eventually tolerated.

Many of the solutions to this problem are not complicated. Crime can be deterred with greater investigation and greater prosecution. Ultimately, that is the most effective solution. My hope is that in Kansas, as we turn up the heat on organized retail crime, those criminal enterprises will realize that they are going to get caught; and the increased threat of prosecution will cause this form of crime to diminish. And regardless of what happens nationally, in Kansas we will fight for a culture where the rule of law prevails, and no-one sees theft as a normal part of life.

Mr. BIGGS. Thank you, Mr. Kobach.
Ms. Mohs, we're ready for you and your five minutes.

STATEMENT OF LORIE MOHS

Ms. MOHS. Good afternoon.

Thank you for taking the time to hear my story.

My name is Lorie Mohs, and my son's name is Blake Mohs. He was born on January 14, 1997, and was murdered on April 18, 2023, at the young age of 26. In my son's short 26 years, he was a chef, an Eagle Scout, a church youth leader, a Newark Police Department cadet, but most of all, he was a friend, a nephew, a cousin, a grandson, a brother, and my son.

Blake lived a life of community service dedicated to fighting for the underdog and a love for his family. He lived life to the fullest every day, laughing often and giving the best hugs imaginable.

In early 2022, Blake became an asset protection associate for Home Depot. He worked to gain additional experience before applying to the Newark Police Department. When I spoke with Blake on our every Wednesday calls, he would tell me about his training at Home Depot. He would explain that he was trained to locate shoplifters within the store, document their actions, track shoplifters through the store, follow them outside and apprehend them. Then he would bring the shoplifters back into the store to complete a theft report, take photos, and then turn them over to law enforcement if required.

When I asked my son about the risk of his new job at Home Depot and if he was provided any personal protective equipment, he quickly would tell me no. I would ask if he's been issued any bulletproof vests, pepper spray, or safety gear, and he would again tell me no.

During many of my calls we would talk about the level of theft he experienced within Home Depot. He would tell me of the theft rings he would help gather evidence for local police departments and how excited he was to work with the officers.

Blake would tell me about the many weapons he had pulled on him, including knives and guns, by shoplifters. When I asked about how he could manage to be safe, my son would tell me he could simply hide behind a post to avoid being shot or hurt.

As a mom, my concerns began to grow at the lack of PPE that had been issued by Home Depot.

All my concerns and fears were realized by one phone call. On Tuesday, April 18th, the voice over the phone declared that my son had been shot. I quickly called Eden Medical where he had been transported to get an update. I spoke with the emergency room doctor, and he simply told me to come as quickly as I could. I asked if I needed to gather my family, and he said yes. At that moment I knew my son was dead.

On April 18, 2023, eight weeks ago today, at 2:15 Pacific Standard Time, my son was shot at close range by a shoplifter while working as an asset protection officer at Home Depot in Pleasanton, California. My son and his teammate had been called into action as Benicia Knapps attempted to steal a charger from the tool department. My son encountered Knapps at the back of the store where her getaway driver, David Guillory, was awaiting to

flee the scene. According to witness statements, my son took the item from Knapps and walked back into the store.

Knapps followed my son back into the store. When he turned around, she pulled out her gun from her purse and shot my son, in the heart of all places. He fell face forward to the ground and dropped the item. Knapps picked up the item from his dead body and fled in the getaway car.

In the days to come, I would learn that Guillory, the getaway driver, was a felon. He had served jail time for home invasion robbery but was let go during COVID. We learned that Knapps, my son's executor, had been in and out of trouble since 1995. She was in violation of probation since 2012 but was still roaming the streets free. She also had a concealed permit that had been revoked, along with her security guard card.

For both Guillory and Knapps, the judicial system failed to rehabilitate them properly. The system failed to keep them accountable for their private actions, leading to the escalation in criminal behavior, leading to the shooting death of my son.

The system failed because instead of rehabilitating criminals, we release them early, we do not execute proper charges in court, and we fail to seek probation violators.

The system failed my son. He was asked to do a job with a small wage and a high risk leading to his death. Home Depot failed to provide proper protective equipment to secure his safety and carry out his required duties. OSHA failed to make safety a priority for asset protection officers and mandate bulletproof vests.

The system failed Blake's future self. He will never be married. He will never have a child. He will never grow old. We will never have another family photo. We will never hear his laughter or feel his hugs. I will never get to say, I love you and I'm proud of you, and I'll never hear it back.

What we do have is 26 wonderful years of memories that were cut too short. The failing of so many could have prevented his death. Our hope is that our story helps this Committee understand the importance and the urgency for change.

Thank you for your time and for listening to our story.

[The prepared statement of Ms. Mohs follows:]

House of Representatives, Judicial Committee

Witness Statement: Lorie Mohs

Good afternoon Chairman Biggs, Ranking member Shelia Jackson Lee and distinguished members of the House of Representatives, Judiciary Committee. My name is Lorie Mohs and I am grateful for the opportunity to share my sons story with you today. My son, Blake Mohs was born on January 14, 1997 and was murdered April 18, 2023 at the young age of 26. In my sons short 26 years, he was a chef, Eagle Scout, church youth leader, Newark Police Department Cadet: but most of all he was a friend, nephew, cousin, grandson, brother and son.

Blake lived a life of community service, dedication to fighting for the underdog, and love for his family. He lived life to the fullest every day, laughing often and giving the best hugs imaginable.

In early 2022, Blake became an asset protection associate for Home Depot. He worked to gain additional experience before applying for the Newark Police. When Blake and I spoke on our every Wednesday calls, he would tell me about his training at Home Depot. He would explain that he was trained to locate shoplifters within the store, document their actions, track the shoplifter through the store, chase them out of the store and apprehend them. He would bring the shoplifter back into the store to complete a theft report, take their photo and release them to the police if the value of theft warranted.

When I asked my son about the risks of his new job with Home Depot and if you were provided any Personal Protective Equipment, He quickly would declare "No". I would ask if he had been issued a bullet proof vest, pepper spray or safety gear and he would again declare "No".

During many of our calls we would talk about the level of theft he experienced within Home Depot. Blake would tell of the theft rings he would help gather evidence for the local police departments on and how excited he was to work with the officers.

Blake would tell me about the many weapons he had pulled out on him, including knives and guns by shoplifters. When I asked about how he could manage to be safe, Blake would tell me that he could simply hide behind a post or items to avoid being hurt or shot at.

As a mom, my concerns began to grow at the lack of personal protective equipment (PPE) he had been issued by Home Depot.

All of my concerns and fears were realized by one phone call on Tuesday, April 18, 2023... The voice over the phone declared that my son had been shot. I quickly made a call to Eden Medical where Blake had been transported to, to get an update. When speaking with the Emergency doctor I asked how my son was, I urged to speak with Blake, but the doctor simply said to come as quickly as I could.

I then asked, "Do I need to gather the family?"

The answer was clear and simple "yes" the doctor declared. At that moment I knew my son was gone.

On April 18, 2023 at about 2:15 pm, my son, Blake Mohs was shot at close range by a shoplifter while working as an asset protection officer at Home Depot in Pleasanton, California. My son and his teammate had been called into action, as Benicia Knapp was attempting to steal a charger from the tool department. My son encountered Ms Knapp at the back of the store, where her get-away driver David Guillory was waiting for her to flee the store with the stolen item. According to witness statements my son took the item from Ms Knapp and walked back into the store. Ms Kapp followed my son back into the store and when he turned back around, she pulled out her ghost gun from her purse and shot my son in the heart. He fell face forward to the ground and dropped the item. Ms Kapp picked up the item from his dead body and fled in the getaway car.

In the days to come we would learn that David Guillory, the getaway driver was a felon. He had served time in jail for a home invasion robbery but was released early during COVID.

We learned that Benicia Knapp, my son's executioner had been in and out of trouble with the police since 1995. She has been in violation of probation since 2012, but still roaming the streets free. She also had a concealed carry gun permit that was revoked along with her security guard card in years past.

For both Guillory and Knapp's, the judicial system had failed to rehabilitate them properly. The system failed to keep them accountable for their previous actions, leading to the escalation in criminal behavior, leading to the shooting death of my son.

The system has failed because instead of rehabilitating criminals, we release them early, do not execute the proper charges in court, or we fail to seek the probation violator.

The system also failed my son- He was asked to do a job with a small wage and high risk, leading to his death. Home Depot failed to provide proper protection to secure his safety when carrying out his required duties. OSHA failed to make safety a priority for asset protection officers and mandate bullet proof vests.

The System failed Blake future-self. He will never get to be married, have a child, he will never grow old, or buy a house.... We will never get to hear his laughter; we will never feel his huge hugs. We will never get to say to him "I love you son! I am proud of you!" and hear him say he loves us.

What we do have are the wonderful 26 years of memories that were cut too short by, the failing of so many that could have prevented his death.

We hope that our story, Blake's story, helps this committee understand the importance and the urgency for change.

Mr. BIGGS. Thank you very much and thank you for sharing that very poignant story.

Thank you.

The Chair recognizes Mr. Flynn.

STATEMENT OF JOHN FLYNN

Mr. FLYNN. Thank you, sir.

Good afternoon, Chair Biggs, and Members of the Subcommittee. As was alluded to, my name is John Flynn, and I'm the elected District Attorney of Erie County, New York. That is the home of Buffalo, New York. I am also the elected—the President of the National District Attorneys Association better known as NDAA. NDAA recognizes the vital role that prosecutors play in the safety of local communities, including addressing the serious challenge of retail theft and organized retail crime. I appreciate the opportunity to testify today.

Let me begin with a couple of statistics that give you the scope of the problem. According to a report by the Retail Industry Leaders Association on the impact of all forms of retail theft, almost \$70 billion worth of products was stolen from U.S. retailers in 2019. Connected to that is the cost of Federal and State governments in lost personal and business tax revenues estimated at about \$15 billion.

These statistics are comprised of large and small, urban and rural communities. Organized retail crime and retail theft are equal opportunity destroyers of communities and must be addressed to ensure healthy and vibrant communities.

We have to differentiate, though, between the two and break down the types of defendants as seen by law enforcement prosecutors.

In my county of almost one million people, we see mainly three categories:

- (1) First are the organized crime syndicates, the Russian crime syndicates, the Mafia, the Mexican cartels, other highly sophisticated gangs, and other transnational rings.
- (2) The second group I would characterize as loosely affiliated group affiliations, individuals, groups of four to five individuals that get together and steal merchandise.
- (3) The third category I would call just the random individuals, those who commit theft for personal use. This category often involves a single individual who is suffering from a substance abuse disorder, mental illness, is homeless, or has economic challenges.

Overall, we are seeing the vast majority of activity in my community and when I talk to most local prosecutors in the second and third categories of defendants. However, it's important to note that the first group of defendants very much exist.

Both retail theft and organized retail crime have a negative impact on communities. Unfortunately, it sometimes involves violence as well as damage to store fronts and other property. That's on top of the economic loss, which then adds to the burden faced by consumers.

I think we can all agree that this has to change. The approach must be targeted and must be tailored as opposed to a one-size-fits-all strategy.

We must address the issue holistically. For those individuals who steal for their own personal use, they may need services like alcohol, drug, or mental health treatment. For more sophisticated operations, particularly involving repeat offenders, a more law-and-order approach is needed, such as incarceration. Each category of defendant and even each individual within the categories must be treated differently, depending on the circumstances and facts of each case.

It is also important to understand who is generally handling these cases and these categories as defendants.

The first category of organized criminal groups is handled primarily by the Federal government, through agencies like the Homeland Security Investigations and U.S. attorneys' offices acting through the Department of Justice. This is particularly important when criminals cross State lines or even international borders.

The second and third category of defendants are local in nature, and I believe should be handled by local law enforcement and my district attorney prosecution agencies. That requires law enforcement prosecutors to step up and acknowledge the serious nature of these crimes and their impact on communities.

Just last week my office prosecuted a habitual offender for retail theft after being banned from several stores. He was given six years in prison, and this individual continued to steal even when picked up on an outstanding warrant. The bottom line is that shoplifting is not a victimless crime. We should not tolerate these thefts and should hold offenders accountable for their crimes.

I appreciate the opportunity to speak with you about these important and complex issues. NDAA stands ready to assist as we look for ways to tackle organized retail crime and retail theft that threatens the vibrancy of our communities.

[The prepared statement of Mr. Flynn follows:]



Testimony of John J. Flynn
District Attorney, Erie County, NY
President, National District Attorneys Association

The Rise of Organized Retail Crime and the Threat to Public Safety

House Committee on the Judiciary

Subcommittee on Crime and Federal Government Surveillance

Tuesday, June 13, 2023

Good afternoon Chairman Biggs, Ranking Member Jackson Lee and Members of the Subcommittee. My name is John Flynn and I am the elected District Attorney for Erie County, NY and the current President of the National District Attorneys Association (NDAA). NDAA recognizes the vital role that prosecutors play in the safety of local communities, including addressing the serious challenge of retail theft and organized retail crime.

Prosecutors are responsible for ensuring that justice is carried out in a fair and equitable manner, protecting the rights of victims, and holding accountable those who violate the law. NDAA's mission is to support prosecutors in their efforts to fulfill these responsibilities and to promote a criminal justice system that is fair, effective, and accountable. I appreciate the opportunity to testify before you today.

Background

Let me begin with a couple of statistics to give you the broad scope of the problem we are talking about today. According to a report by the Retail Industry Leaders Association (RILA) on the impact of organized retail crime and retail theft, almost \$70 billion worth of products was stolen from U.S. retailers in 2019. Connected to that is the cost to federal and state governments in lost personal and business tax revenues: estimated at about \$15 billion.

[According to business.org](https://www.business.org), the percentage of small-business owners reporting daily shoplifting increased from 14% to 23% from 2020 to 2021. These are just a few data points illustrating the problem.

These statistics are comprised of large and small, urban and rural communities. Organized retail crime and retail theft are equal opportunity destroyers of communities and must be addressed to ensure healthy and vibrant communities.

In order to address organized retail crime and retail theft, we have to differentiate between the two and break down the types of defendants seen by law enforcement and prosecutors around the country.

Categories of Defendants

In my county of almost 1 million people, we see three main categories of defendants:

1. *Organized Crime Syndicates*: organized Russian crime syndicates, the Mafia, highly sophisticated gangs, other transnational crime rings.
2. *Organized Criminal Groups*: groups of 4-5 individuals that get together to steal merchandise; they have some level of sophistication, are somewhat organized and are considered more professional shoplifters, or what are commonly called boosters. (ex. Youth smash and grabs)
3. *Individuals*: individuals who commit theft for personal use; this category often involves a single individual who is suffering from a substance use disorder, mental illness, is homeless or is in poverty. (ex. Something to eat or theft of formula for an infant)

Overall, we are seeing the vast majority of activity in the second and third categories of defendants as opposed to the first, however, it's important to note that the first group of defendants very much exists and has a negative impact on communities.

Impact on Communities

Both retail theft and broader organized retail crime have a negative impact on communities. Unfortunately, it has taken the form of violence including death and serious bodily injury as well as damage to storefronts and other property. That's on top of the economic loss that

I referenced earlier in my testimony, which then potentially adds to the burdens faced by consumers. The U.S. Chamber of Commerce estimates that roughly 25% of businesses have raised prices in order to offset losses in their stores.

I think we can all agree that this should not be tolerated. As a result, it's important to consider how we in public safety approach these serious crimes. The approach must be targeted and tailored as opposed to a one-size-fits-all strategy.

Approaches to Accountability

To address the serious problems of organized retail crime and retail theft, we must address the issue holistically. For those individuals who steal for their own personal use, they may need services like alcohol, drug or mental health treatment. For other individuals and more sophisticated operations, particularly involving repeat offenders, a more law and order approach is needed, like incarceration. Each category of defendant, and even each individual within the categories I've mentioned today, must be treated differently depending on the circumstances and facts of each case.

It's also important to differentiate which level of government is handling these categories of defendants. For example, the first category of organized criminal groups such as Russian syndicates or other highly sophisticated enterprises is primarily handled by the Federal Government through agencies like Homeland Security Investigations (HSI) at the Department of Homeland Security and US Attorney's Offices through the Department of Justice. This is particularly important when criminals cross state or international borders.

The second and third categories of defendants are local in nature and should be handled by local law enforcement and prosecution agencies. That requires law enforcement and prosecutors to step up and

acknowledge the serious nature of these crimes and their impact on communities.

Just last week, my office prosecuted a habitual offender for retail theft. He had been previously banned from entering a local home improvement store for three years after a prior incident. The individual then entered the same store and walked out with merchandise without paying. Just three weeks later, the same individual entered another store he had been banned from after a prior incident and stole additional merchandise. He was then picked up on an outstanding warrant and ultimately received a two-to-four-year prison sentence.

As I stated when I announced the sentencing, “Shoplifting is a not a victimless crime. I want the retailers in Erie County to know that these thefts will not be tolerated and that my office will continue to hold these offenders accountable for their crimes”.

Prosecutors must be fair and impartial in the evaluation of each case that comes before them. We must hold bad actors accountable and recognize the harm caused to businesses and innocent bystanders. We must also recognize the power of rehabilitation for individuals in our community and be proactive in connecting individuals who suffer from substance use and mental health issues to the services they need in order to get back on the right path and become productive members of their communities.

Policies and Partnerships to Change Behavior

There is some positive news to share on the policy and partnership front that is encouraging in our fight to combat retail theft and organized retail crime.

In August 2022, NDAA and RILA [announced the first-of-its-kind national partnership](#) to combat retail crime, which followed a successful summit

in June last year that brought together prosecutors and retailers from around the country. This partnership is specifically designed to provide technical resources and lessons learned to prosecutors and retailers for more effective and successful prosecutions of retail crime.

And, just this May, NDAA and RILA [announced the launch of its Vibrant Communities Initiative](#), an innovative pilot project to address root drivers of habitual theft, violence and other unlawful activity in and around retail establishments. This initiative will bring together prosecutors, retailers, law enforcement, social service organizations, local policymakers, the business community and others to increase information sharing, assist in the prosecution of habitual and violent offenders, propose meaningful second chance opportunities to reduce recidivism and explore cutting-edge technology solutions to help prevent retail crime and deter violence against employees and consumers.

Finally, I'd like to briefly mention the issue of online marketplaces and their role as a venue for the trafficking and resale of stolen merchandise. As technology continues to advance, so does the ease in which stolen and counterfeit goods can flow into the hands of bad actors, but also into the hands of everyday consumers who unknowingly are purchasing them.

At the end of 2022, Congress passed the Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act, referred to as the INFORM Act, which requires online marketplaces to collect, verify, and disclose certain information from high-volume sellers and to provide consumers with means to report suspicious activity. This was a needed step to address the issue of online marketplaces and I hope we can continue that conversation beyond today's hearing.

I appreciate the opportunity to speak to you about these important and complex issues. The National District Attorneys Association stands ready to assist this subcommittee and the broader committee as we look for ways to tackle organized retail crime and retail theft that threatens the vibrancy of our communities.

Mr. BIGGS. Thank you, Mr. Flynn.
Mr. MILHISER.

STATEMENT OF THE HON. JOHN MILHISER

Mr. MILHISER. Thank you, Chair Biggs and the distinguished Members of the Committee. Thank you very much for the opportunity to address you on this important topic, the rise in organized retail crime and the corresponding threat to public safety.

I spent the majority of my career as a State and Federal prosecutor working on these very issues and the main overriding issue of public safety and safe communities.

My name is John Milhiser. From 2018–2021, I served as the United States Attorney for the Central District of Illinois. Prior to that, from 2010–2018, I served as the State’s Attorney or local DA for Sangamon County, Illinois, of which I was a member of the NDAA, which DA Flynn is the president of. In both positions my goal was the same, to work each day to make my community safer. That should be the goal of every prosecutor in this country, and I’m not sure it is.

At the outset, I recognize that this is a congressional hearing. As a former U.S. Attorney, I’m fully aware that Federal prosecutors and Federal law enforcement agencies can be important partners in investigating and prosecuting organized crime. However, the bulk of the heavy lifting in prosecuting crime in the United States is performed by State and local prosecutors.

The individuals on the frontline tasked with keeping our communities safe are the 2,500 or so elected and appointed DAs and their offices around the country at the State and local level. These prosecutors have a tremendous amount of discretion. Unfortunately, as we have seen in some jurisdictions, when they come in and fail to do their job, crime increases. It’s a difficult job, but an incredibly important one.

To have safe communities, we need to ensure that we have good prosecutors in every jurisdiction in the country, and we need to ensure that these prosecutors have access to the resources necessary to successfully prosecute crimes which are becoming increasingly more sophisticated.

Organized retail crime has both national and international components. It’s become a serious problem for nationwide retailers and can be devastating to small local businesses. Organized retail crime is distinguishable from ordinary retail theft given its large scale and its focus on converting stolen goods to cash, through resale or to gift cards through store returns.

Theft can occur throughout the supply chain. Organized retail crime drives up costs, requires diversion of already scarce resources, results in lost tax revenue, and, significantly, puts individuals at risk.

To successfully combat this worsening trend, we need tools for law enforcement and local prosecutors, and we need local prosecutors committed to preserving the rule of law and protecting the public.

During my time as U.S. Attorney and State’s Attorney, I participated in a number of topic specific task forces which included State and Federal prosecutors, law enforcement, and relevant govern-

ment and private agencies. Coordination is key in dismantling criminal enterprises, whether it be human trafficking, illegal drugs, or organized retail theft.

For example, while most crimes are prosecuted locally, the Federal government is uniquely positioned to investigate online multi-jurisdictional resale of stolen goods.

Additionally, there's legislation being considered here on Capitol Hill that could help, including broadening the scope of cases in which the U.S. Attorneys' offices can be involved and Federal charges can be filed and utilizing Federal asset forfeiture to take away the proceeds from organized retail crime and to disrupt operations.

When considering the increase in organized retail theft, one must examine the rise in crime in general and how to address the overall problem. We need Federal authorities to provide resources, expertise, and partnerships. At the end of the day, we need local prosecutors to step up and do their jobs.

Earlier this year, I along with several other former U.S. Attorneys from around the country formed a bipartisan organization to address this very issue called the American Center for Law and Public Safety. We identified five core principles needed by responsible prosecutors around the country to be effective. These are:

- (1) *Prioritize public safety.* You'd think that would be a given, but it's not for some prosecutors when they come in.
- (2) *Respect for the rule of law.* Some prosecutors come in, and they say, you know what? I don't care what the legislature says. I'm going to go ahead and not follow what they say, and I'm going to not charge certain offenses that are on the books.
- (3) *Support victims' rights.* They're often forgotten in the equation, but they're the victims of these offenses.
- (4) *Collaboration with law enforcement.* They are part of the answer, not the problem.
- (5) *Support post-sentence reentry,* which good prosecutors, responsible prosecutors know that because these folks that are locked up, 99 percent of them are going to get out. If they go right back to that same environment that they were in, we're silly to think they're going to change their behavior. So, we need to put them in the best position to no re-offend.

Being a modern-day prosecutor is a difficult job dealing with limited resources, but it's a vitally important job, and a prosecutor's most important duty is to protect the public. Working together, we can achieve the goal of safe communities and allow individuals and businesses to prosper.

Thank you for this opportunity and for raising awareness on this issue. I look forward to answering your questions.

[The prepared statement of the Hon. Milhiser follows:]

UNITED STATES HOUSE OF REPRESENTATIVES
HOUSE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT SURVEILLANCE

STATEMENT OF JOHN MILHISER

HEARING: "THE RISE IN ORGANIZED RETAIL CRIME AND THE THREAT TO PUBLIC
SAFETY"

JUNE 13, 2023

Chairman Jim Jordan, Chair Andy Biggs, Ranking Member Shelia Jackson Lee, and distinguished members of the committee, thank you very much for the opportunity to address you on this important topic, the rise in organized retail crime and the corresponding threat to public safety. I have spent the majority of my career as a state and federal prosecutor, working on these very issues and the main overriding issue of public safety and safe communities.

My name is John Milhiser. From 2018 to 2021, I served as the United States Attorney for the Central District of Illinois. Prior to that, from 2010 to 2018, I served as the State's Attorney, or local D.A., for Sangamon County, Illinois. In both positions, my goal was the same, to work each day to make my community safer.

At the outset, I recognize that this is a Congressional hearing, and as a former U.S. Attorney, I am fully aware that federal prosecutors and federal law enforcement agencies can be important partners in investigating and prosecuting organized crime. However, the bulk of the heavy lifting in prosecuting crime in the United States is performed by state and local prosecutors. The individuals on the front lines tasked with keeping our communities safe are the 2,500 or so prosecutors at the state and local level across this country. These prosecutors have a tremendous amount of discretion, and unfortunately, as we have seen in some jurisdictions, when they come in and fail to do their job, crime increases. It is a difficult job, but an incredibly important one. To have safe communities, we need to ensure that we have good prosecutors in every jurisdiction in the country and we need to ensure that these prosecutors have access to the resources necessary to successfully prosecute crimes which are becoming increasingly more sophisticated.

Organized retail crime has both national and international components. It has become a serious problem for nationwide retailers, and it can be devastating to small local businesses. Organized retail crime is distinguishable from ordinary retail theft given its large scale and focus on converting stolen goods to cash through resale or to gift cards through store returns. Theft can occur throughout the supply chain. Organized retail theft drives up costs, requires diversion of already scarce law enforcement resources, results in lost tax revenue, and significantly, puts individuals at risk.

To successfully combat this worsening trend, we need tools for law enforcement and local prosecutors and we need local prosecutors committed to preserving the rule of law and protecting the public. During my time as U.S. Attorney and State's Attorney, I participated in a number of topic specific task forces, which included state and federal prosecutors, law enforcement, and relevant government and private agencies. Coordination is key in dismantling criminal enterprises, whether it be human trafficking, illegal drugs, or organized retail theft. For example, while most crimes are prosecuted locally, the federal government is uniquely positioned to investigate on-line, multi-jurisdictional resale of stolen goods. Additionally, there is legislation being considered here on Capitol Hill that could help, including broadening the scope of cases in which the U.S. Attorney's Offices can be involved and federal charges can be filed and utilizing federal asset forfeiture to take away the proceeds from organized retail crime and to disrupt operations.

When considering the increase in organized retail theft, one must examine the rise in crime in general and how to address the overall problem. We need federal authorities to provide resources, expertise, and partnerships. But, at the end of the day, we need local prosecutors to step up and do their jobs. Earlier this year, I along with several other former U.S. Attorneys formed a bi-partisan organization to address this very issue, called the American Center for Law & Public Safety. We have identified five core principles needed by responsible prosecutors in order to be effective. These are prioritize public safety, respect for the rule of law, support victims' rights, collaboration with law enforcement, and support post-sentence reentry.

Being a modern day prosecutor is a difficult job, dealing with often limited resources and the rise in sophisticated criminal enterprises that span jurisdictions. Collaboration is needed and partnerships are vital to successfully prosecuting organized retail crime. A prosecutor's most important duty is to protect the public. Working together we can achieve the goal of safe communities and allow individuals and businesses to prosper.

Thank you for this opportunity and for raising awareness on this issue. I look forward to answering your questions.

Mr. BIGGS. Thank you, Mr. Milhiser.

The Chair recognizes the gentleman from Wisconsin for his five minutes.

Mr. TIFFANY. Thank you, Mr. Chair.

Mr. Kobach, do you think the lawlessness we're seeing in our country—and we are seeing it—over the last number of years and the defund the police movement, this lack of respect for law enforcement, do you think this has contributed to what we're seeing here?

Mr. KOBACH. I do, sir. At the end of my comments, I briefly noted on this. There's a cultural element here too, and it's a lack of respect for the rule of law, and it gets to a point in certain areas where people feel like shoplifting is accepted or at least tolerated or nothing is being done about it. There's also a subculture among the boosters and among people who may not be part of organized retail crime that works but, nevertheless, shoplift for personal reasons, and there are committing these on Reddit where they routinely talk about sharing strategies for crime, for different stores and how to hit different types of stores differently, and what the policies are.

So, there is definitely a shift in the culture of certain communities geographically where the organized retail crime is hitting, and I think that's a problem. It's more than just stores being hit and a lack of prosecutors. It's being accepted in some quarters. So, I think by taking action we also restore the rule of law in a sort of cultural sense both for the communities and for the entire country.

Mr. TIFFANY. Ms. Mohs, you commented about there and perhaps should be some additional safety requirements put in place for people like your son who's in a job like he's doing.

Do you live in California? We're certainly seeing what is happening in California where the legislature is basically endorsing crime with some of their public policy actions.

Do you agree with the characterization that Mr. Kobach just laid out?

Ms. MOHS. I only involve myself in this instance with my son's passing, unfortunately. So, defunding police and things of that, those are not my expertise. I just know how my son passed and what I'm fighting for in my own community.

Mr. TIFFANY. Thank you for that.

So, I would share a story. Mr. Milhiser, you laid it out quite well there. I have spoken repeatedly in this Committee in regard to the District Attorney down in Milwaukee County who has accepted this lawlessness in his county. There's a story here that there's a serial retail thief who has stolen thousands of power tools 14 times from various Home Depot stores throughout the area since August 2021, yet the Milwaukee County District Attorney has not charged any of those instances.

Mr. Chair, I would like to enter this into the record, a story from Wisconsin Right Now, serial retail theft suspect, 14 cases, failure to charge.

Mr. BIGGS. Without objection.

Mr. TIFFANY. If you will remember, it's that same district attorney that let Darrell Brooks out on a \$1,000 bail. He was a serial

recidivist, including violent crimes. He was the perpetrator of the Waukesha Christmas Day Parade from—what was that—a year and a half ago, \$300,000 bail. Six people were killed when he drove his automobile through that parade. I believe there were about 60 people that were injured.

This is the kind of thing that's happening around America where we have these prosecutors that are doing things like that.

I think we would be remiss, Mr. Chair, because I think you laid it out quite well in your opening statement, about the lawlessness that pervades America. We see it down on the southern border, which we've heard about repeatedly in this Committee, where we have a Secretary of the Department of Homeland Security that denies that there's a problem on the border, even in the face of the head of Border Patrol saying differently, that the border is not secure.

We're seeing this lawlessness generally across America and—but I think I would be remiss, Mr. Chair, in not pointing out that some of the woke corporations that are coming to us now and saying, "Hey, we need relief," we don't disagree with you, but you need to not fund these activities that are going on and these organizations that are perpetrating some of this crime. I think it's very important that you step up. Also, I would just say to local citizens around America, I know you want to vote for Democrats. That's what you believe in. When you're in the big cities of America—

Mr. BIGGS. The gentleman's time has expired.

Mr. TIFFANY. —it is why you're seeing the lawlessness. You need to vote for people who are going to be tough on crime.

Mr. BIGGS. The gentleman's time has expired.

The Chair recognizes the gentlelady, Ms. Dean.

Ms. DEAN. Thank you, Mr. Chair.

Thank you to all our testifiers for being here today. I'm Madeleine Dean. I represent suburban Philadelphia, Montgomery, and Bucks Counties.

So, Ms. Mohs, to you, thank you for your courage to come here today, to tell your story, to tell Blake's story. It is heartbreaking. It's crushing to hear something like that, which should have been abundantly preventable, happen to your beautiful 26-year old young man. From what I understand, a young man who wanted to go into law enforcement himself, was proud of what he was engaging in.

It comes at a time that strangely on the floor right now is being argued about making legal a stabilizer brace to make weapons more lethal at a time in our country when we're struggling with gun violence. It comes at a time when we can't get the majority party to do anything around gun violence. Thoughts and prayers are all they do.

I want you to know that there are many of us here who are fighting to make sure that the kind of person who shot your son does not possess a weapon. We have laws. She was a prohibited purchaser. We have to make sure we do better by our children.

So, I wanted to give you a minute to tell us a little bit more about your son and just to take back to your family our abiding love and sympathy for your unimaginable loss.

Tell us a little bit more about your son.

Ms. MOHS. Thank you so much. I appreciate your words there. They are beyond kind.

When I talk personally about my son versus in a very eloquent way, the things that I think about are the moments we're really going to miss our traditions without him, our Thanksgiving prayer that my father hosts that will not host this year that prayer, because to say the ones we've lost, he now adds to the chain of my grandmother and my aunt, my son is there.

So, my son lived the biggest life possible, and everybody he touched is better. I'm better for being his mom, and his brother is better for being his brother.

Ms. DEAN. There's a blessing in that. We are very, very sorry. You just have my commitment that we will do everything possible to get our arms around this incredible problem, retail theft, obviously, very serious, but violent crime and gun deaths in this country, when we lose 45,000–47,000 people to gun violence every single year in this country, and we have a party that we tried to have a hearing last week, and no one on the other side of the aisle would give us a hearing room so that victims like you, survivors like you could speak. We had to go over to the Senate side. So very interested in retail crime, not very interested in saving lives.

Mr. SWALWELL. Does the gentlelady yield?

Ms. DEAN. I will yield.

Mr. SWALWELL. Ms. Mohs, I also want to make sure we recognize, your father is a retired police officer, deputy sheriff—is that right—and then became a police chief?

Ms. MOHS. Yes. My father, Roy Froom, is seated behind me, and he is my strength today. He is a retired sheriff, and he also went to the FBI Academy here in D.C. and has lived a wonderful life and was a wonderful grandfather.

Mr. SWALWELL. Ms. Mohs, can you also tell us—you have this public forum, a forum that you never wanted, but to the prosecutors in this case—I hope they're listening to this—what do you want to see as an outcome?

Ms. MOHS. We should be charging this case appropriately, and we should be charging the case based on facts and not on personal opinion or personal agenda. We should be using the judicial system as it should be used, not for personal gain, but for safety of our communities and our children. By not charging the proper gun, which is discharge in death, Benicia Knapps will serve much less of a sentence, and the DA's office is refusing to do so.

It's not fair that we have to be victimized again to fight for our child and to fight for justice and the right things to happen in court.

Mr. SWALWELL. Thank you, Ms. Mohs.

I yield back.

Mr. BIGGS. Thank you. The time has expired.

I now recognize the gentleman from Alabama, Mr. Moore.

Mr. MOORE. Ms. Mohs, thank you for being here today and sharing your family's personal story.

Mr. Kobach, you said something a while ago that when you said a lower bail percentage, you mentioned that in your testimony, tell me, I've heard of being soft on crime. How is that impacting people getting out and why lower bail percentage?

Mr. KOBACH. Well, if the bail bondsman is accepting a much smaller percentage, say, ten percent or five percent of the bail amount and the bail amount itself is very small, then you may be—these boosters may be able to get out on bail for only \$1,000 or even less. So, that results in them being detained for a very short period of time and that they can go right back to doing what they were doing.

Mr. MOORE. So, in a situation like that, they would be back in a Lowe's or a Home Depot rather quickly once that decision is made to turn them back out on the street?

Mr. KOBACH. Right.

Mr. MOORE. Is that because they're soft on crime? The bail bondsman knows, in fact, that there's probably not going to a prosecution and they're not going to jump?

Mr. KOBACH. No. I would say that this is occurring in jurisdictions in my State that are certainly not soft on crime, and the prosecutors are not soft on crime at all. It's just that the judges—there's been a trend over the years in many States where there's no political dynamic going on, but the bail amounts are being set lower.

That's something that legislatively the legislators in Kansas may need to address. It's one of many factors that is causing a lack of prosecution or, in this case, a lack of detention.

Mr. MOORE. Gotcha.

How is your office working to toughen Federal and State laws to stop these gangs from stealing in different jurisdictions and then stealing just enough to stay below that felony threshold? What are you doing in that respect?

Mr. KOBACH. So, they typically—in Kansas, the felony threshold is at \$1,000, so you will typically see them stealing 900 or so in any given criminal event. The prosecutors note this, and as I said before, they've got a stack of cases, and if there's no person felony, it's only non-person felonies, they tend to fall to the bottom of the stack. I'm not blaming local prosecutors. They have a shortage of criminal prosecuting attorneys across the country.

In my office, at the State Attorney General's office, we're having difficulty hiring to fill all the vacancies we have. We do have capacity, and that's why in our State legislation that was recently adopted, we have primary prosecution authority if the case involves more than one county, which typically is the case in these organized retail crime networks. So, we'll be bringing State resources to bear when that law takes effect on July 1st.

Mr. MOORE. OK. Thank you, thank you.

Mr. Milhiser, what's happening in communities where the prosecutors fail to apply the laws? What are you seeing? You mentioned that in your testimony about you've got certain prosecutors that have just decided not to apply the law on the book. Whether we change the law or not, if it's not applied, it's very ineffective for us to pass law after law, whether it be gun laws or drug laws, or whatever the case, if, in fact, they're not prosecuted.

What's going on in those communities, Mr. Milhiser?

Mr. MILHISER. What we've seen—and it's pretty uniform around the country—in jurisdictions where a—I call them so-called progressive prosecutors, because a progressive prosecutor is not, in

and of itself, a bad thing. It could be a modern prosecutor that looks at diversion courts and specialty courts, all things I put in when I was the elected DA.

Those are fine, but as prosecutors, when they come in with some other agenda, sort of these politically driven extremists that have done nothing but degrade the quality of the criminal justice system around the country, in the communities that they serve, and I think what you see is crime goes up. Businesses leave. We see what's happening in San Francisco. Now, they recalled that DA last year.

In St. Louis, that's another one with the Circuit Attorney Kim Gardner who recently a judge—before she resigned, a judge called her office a rudderless ship of chaos. Now, I've run a prosecutor's office. You don't want to have a judge call your office that. She not only had this political agenda, but she was inept and could not run an office.

In Chicago the same thing with Kim Foxx, who was a progressive prosecutor, so-called progressive because, again, they decide, hey, I'm going to raise the thresholds, I'm not going to prosecute these cases. People come in, they don't file charges, they get right back out on the street. I think the Chicago Police Department called it catch and release.

You see this in cities around the country when crimes are not prosecuted, and there's no accountability. Those criminals know it, and they're right back out to deadly consequences, deadly consequences, and it's seen all around the country.

Mr. MOORE. The word gets around pretty quick I understand in communities where we're not prosecuting crimes, whether it's organized or just community. Word travels pretty quickly in those communities, and crime just kind of runs rampant. Is that what we're seeing?

Mr. MILHISER. Very much so. So, let's take Illinois, for example. So, you have Cook County where you have Kim Foxx was the State's Attorney, did a poor job of prosecuting cases. Will County, Jim Glasgow, Democrat, good prosecutor. DuPage County, Republican, Bob Berlin, good prosecutor. So, those border Cook County, so those defendants know it. They know it.

There was a carjacking last year. Thankfully, that carjacking person was arrested in Will County where he was prosecuted and locked up. If that same case had happened in Cook County, the person would have been released the next day. So, it's those jurisdictions that are potentially dangerous.

Mr. MOORE. Thank you, Mr. Milhiser. I'm out of time.

I yield back, Mr. Chair.

Mr. BIGGS. Thank you.

The Chair recognizes the Ranking Member, the distinguished lady from Houston, Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you for your courtesies and let me thank Congressman Dean for her questioning, certainly to Congressman Swalwell, and to his constituent for his leadership, persistent leadership in assuring justice for you. I'm very appreciative of his presence here and as well his assistance in covering the Ranking Member capacity. So, thank you so very much for your leadership on this issue.

I think we all want justice for anyone that has been in the midst of a heinous crime that has generated in the loss of life. We want to come here today and fully appreciate what we're dealing with.

So, I want to thank the gentleman from Arizona for yielding to me for my opening statement, which I will try to summarize and come back again for questions. We're here today to deal with the issue of retail crime.

Recently retail and industry advocates have sounded the alarm expressing concern that organized retail crime has become a significant threat to the retail industry. This criminal activity involves groups of individuals who operate in a well-coordinated manner to steal goods or defraud retailers and resell stolen items for economic gain.

Mr. Biggs, Congressman Biggs, just last week I spoke to the mobile phone store owners. Most of those stores are ground floor—all of them are ground floor. They're in shopping centers, strip centers, et cetera. There's nothing like—I guess the terminology is break the glass and grab something else—smash and grab. Thank you so very much. They were speaking of that, and I went to listen to them because that is heinous, it is an economic crime but, it's also violence and threatens the potential of people's lives. Smash and grab, we're not here to support that.

It is a multibillion-dollar enterprise, and I want them to know that I'm listening to those constituents in Houston who have businesses that are subject to that kind of crime that evolves and adapts to the latest technological trends within the retail industry and among consumers and results in higher prices at the cash register. Social media and news reports are replete with videos of flash mobs rushing into stores and overwhelming, sometimes assaulting, employees and leaving with bags and armfuls of goods, mostly these retail items, from clothing to jewelry to phones, et cetera.

While these anecdotal counts are allowing the Federal role in deterring these crimes, it should be made clear, because it seems unclear, the Federal government has long recognized the problem and taken steps to combat organized retail crime and protect store employees, customers, and communities. Cooperation between retailers and Federal and State law enforcement agencies through task forces and partnerships has been crucial in addressing these crimes and promoting public safety.

For example, the FBI's Cleveland Field Office partnered with the Retail Industry Leaders Association and State and local law enforcement agencies to share expertise, intelligence, and resources to identify, investigate, and prosecute those who perpetrate these crimes.

Over the past three years, Homeland Security Investigation has tripled the number of cases it is investigating. Last year, HSI Houston and the Houston Police Department, who I applaud, arrested eight people and seized nearly 2,000 stolen electronic devices, which is very likely the device of choice, valued at approximately \$1.8 million as part of a joint investigation into a \$65 million transnational organized retail crime operation suspected of smuggling stolen cell phones and other electronic overseas and laundering the proceeds.

The FBI, the Secret Service, and the Department of Homeland Security have all increased their efforts to investigate and prosecute retail crime because it is a domestic national security threat, and it connects internationally.

Even in spite of the efforts of law enforcement to address this issue, the issue of understanding the prevalence of organized retail crime persists, largely due to a lack of consistent and comprehensive data.

If I support legislation, that would be one of the aspects of determining what is the level of this type of crime. Data gives us a pathway to solution. While various retailers, retail organizations, law enforcement track retail theft, there is no uniform definition of organized retail crime or a standardized method for tracking such crimes, which makes it difficult to ascertain the full scope of the problem and formulate a targeted response.

Compound the inconsistency in data collection with retailers' reluctance to report the full extent of crimes committed in their stores, then lawmakers, such as ourselves, are left with little information that we can use to determine how Congress can help.

If we can get sort of the relief from insurance rates going up or people not wanting to come to your store to these retailers so we can gather data, that might be a good step forward in getting the information we need.

Moreover, the anonymous nature of the internet has made it easier for criminals supporting the activities and resale of their ill-gotten merchandise. Monitoring online activity can be complicated, and not all transactions can be traced, making it even harder to understand the prevalence of organized retail crime as it occurs.

Last Congress we were able to pass the INFORM Consumers Act which takes effect this month. That's good news. That law will have more transparency to online transactions by requiring online marketplaces to collect, verify, and disclose certain information from high-volume sellers and provide consumers with means to report suspicious activities.

Ms. JACKSON LEE. Despite there being no representative from the retailers present today, I hope our witnesses have been able to, because you've already been testifying, to help us determine whether there's more that the Federal government can do to combat organized retail crime, and certainly to prevent the hardship of this mother who has experienced a terrible crisis and devastating act in her life.

I expect that they will be able to explain—or have been able to explain their vision for increased Federal involvement, and I hope Members have secured that information from them. While there are those who have advocated for Federal organized crime statute, many in law enforcement argue that existing tools are sufficient. We will keep looking at this to combat these crimes.

When considering the creation of new Federal offenses, should be both thoughtful and careful, particularly if there are statutes already available to prosecute the conduct in question. Bearing that in mind, although Federal law does not explicitly criminalize retail theft, the transportation of stolen goods across State lines, the sale or receipt of stolen goods, money laundering, and conspiracy, all which are components of organized retail crime and are all cur-

rently prohibited by Federal law. Enforcement is certainly a key. Catching these bad guys and ladies is certainly important.

Hopefully, today's hearing has been able to determine, and will continue to, what the impediments investigating and prosecuting organized retail crime are due, more to a lack of resources than a need for additional prosecutorial tools.

So, I look forward to listening to the witnesses' answers so that we can be as effective as possible. Yes, when it comes to the dastardly act of someone losing their life, that they never had that happen to a mother or family again. We know there is petty shoplifting, but we know that there is this thing called violent crime that hurts everyone.

With that, Mr. Chair, I yield back.

Mr. BIGGS. Thank you.

With that, the Chair recognizes the gentleman from California, Mr. Kiley.

Mr. KILEY. Thank you, Mr. Chair, and thank you for organizing this hearing.

We need to make crime illegal again. I'm encouraged by the comments of the Ranking Member, which made reference to these flash mobs and the smash and grabs, which shows there's a bipartisan interest in doing just that.

I'm from California, the State where this decriminalization agenda is perhaps in its most advanced stage. To see the perils of it, you need look no further than what's going on in San Francisco as we speak.

Just yesterday, Mr. Chair, Westfield mall, the famous Westfield mall in downtown San Francisco announced it's surrendering the property to its lenders, citing the difficult operating conditions downtown. Almost every day we're learning of new businesses that are closing in San Francisco. In just the last few weeks, that includes T-Mobile, Old Navy, Nordstrom, Whole Foods, Anthropologie, and many more.

The population is dramatically declining in the city as well. In fact, it's declining faster than any major U.S. city in United States history. Faster even than Detroit when it went bankrupt. If you walk around parts of San Francisco, the conditions are truly horrifying. It's utter lawlessness. The subway system, public transportation is on the verge of collapse because of many reasons, one of which is people simply don't feel safe riding. Indeed, the Governor of California, Gavin Newsom, has even said he is sending the National Guard into San Francisco to restore order. Now, that seems to be a stunt because we haven't seen much action yet. Even he recognizes the situation on how dire it is.

CNN just did an hour-long special titled, "What Happened to San Francisco?" So, to answer that question, what happened, I think we can look at a few things.

- (1) The laws that have been passed,
- (2) the approach to law enforcement, and
- (3) the role of prosecutors.

On the first count, when it comes to the laws, the Chair mentioned Prop 47, which is one of many laws that have been passed in California that have in very ill-calculated ways lower criminal penalties. This initiative was passed in 2014. Yes, it was approved

by California voters, but they were misled as to what they were voting for. This initiative was titled by its supporters, quote, "Safe Neighborhood and Schools Act." It lowered the threshold for a felony to over \$950. So, you see people who just again and again and again go and steal below that threshold, and there's no consequence. The retailers don't even report what's happening. Now, as the Chair mentioned, there's even legislation to stop the stores from trying to stop this from happening.

To the point that one of the witnesses, Mr. Milhiser, made, which is that these policies are not truly progressive in any meaningful sense of the word. One of the other things that Prop 47 did is that it took away penalties for drug possession, which basically eviscerated the drug court system in California, because prosecutors no longer had a leverage to encourage offenders to go into drug treatment. So, that's the perverse irony, is that laws like Prop 47 have both eroded public safety and compromised the capacity of our criminal justice system to rehabilitate offenders.

There have been many other laws along these lines. Prop 57 passed. That used another trick, which is to classify offenses as nonviolent, even though they're often quite violent. Then they tell people that's what they're voting for when, obviously, it's something much different. You've had this Governor and his predecessor have released tens of thousands of people early under the banner of executive authority. You had what was known as realignment, where prison populations were shifted into county jails, which aren't built to deal with those sorts of offenders. The list goes on and on and on.

Then at the same time, you had jurisdictions like San Francisco that chose to defund police departments. Now, a lot of that has been reversed now because they realize what a disaster it was, but the damage has been done in a lot of ways. You still have police departments throughout California that are having a very, very difficult time with recruitment and continue to be understaffed because of this anti-law enforcement message that came from some of our State's leading politicians.

Then, finally, you had in places like San Francisco and Los Angeles these so-called—I'll adopt that terminology—progressive prosecutors, the really political prosecutors who came in with an agenda and refused to even enforce the laws that were there.

Here is the big takeaway from all of this, which is that this decriminalization agenda is massively unpopular in California. The District Attorney of San Francisco was overwhelmingly recalled from office. By the way, the Trump-Pence ticket got 12 percent in San Francisco. This isn't some conservative bastion. You've had dozens of city councils have issued votes of no confidence against George Gascon in Los Angeles. California voters overwhelmingly say crime is a major problem, and at this point they favor repealing Prop 47 by 2-1.

So, I thank the Chair for this opportunity to issue this warning to other jurisdictions not to follow the California example and to marshal whatever Federal support we can to make up for the reckless policies of our State's politicians.

Thank you, and I yield back.

Mr. BIGGS. The gentleman yields.

The Chair recognizes again the Ranking Member from Texas, Ms. Jackson Lee, for her five minutes of questions.

Ms. JACKSON LEE. Thank you, Mr. Chair. I appreciate it.

I thank the gentleman from California for giving us an overview.

I think my statement was very clear. We've got to find a way to pinpoint just what the extent, damage, violence of retail crime, and organized crime. It's very important that we give local police the authority and we give them the ability to distinguish against a homeless person, teenager, somebody who's come into a retail place for one item, or teenagers, so that we can focus our resources on keying in to saving lives when violent acts generate, and also to really quash this kind of retail crime. We've got to get our hands around it.

So, Mr. Flynn, if you would help me out. There's a study conducted by the National Retail Federation that found that boosters use money earned from retail theft to meet their basic needs or to support a drug habit. Please tell us more about the Vibrant Communities Initiative and then how will this program prevent vulnerable people from falling prey to organized retail crime recruiters. Almost like human trafficking where the folk are not prostitutes, but they fall victim to being recruited by human traffickers to be prostitutes. Even just recently in my community at a high school. So, would you help us with that, please?

Mr. FLYNN. Yes, ma'am. So, what you see a lot of times that you alluded to are individuals who get caught up in, as I characterized before, some of these loosely affiliated groups. So, you may have a drug dealer or an individual who is involved in human trafficking. Then that individual may have a stable of four or five people who are indeed drug addicts or women who are caught up in sex trafficking, who they use as boosters to go out and steal in stores.

So, the individuals who are the perpetrators of the crime, who are actually in the stores, are, in fact, individuals who need help. They have a drug problem. They have a substance abuse problem. They have an alcohol problem. Even sometimes a mental illness. So, we, obviously, want to help them out. At the same time, if there is an individual who is using them to go out in the stores, that person needs to be held accountable, obviously, and looked at in a different manner.

So, the initiative is holistic in the sense that we're trying to identify who the players are, what their roles are in the crime, and give services, and as Mr. Milhiser mentioned, diversion programs to those who need it, but at the same time hold people accountable who need to be held accountable.

Ms. JACKSON LEE. Very quickly, my time is—I should probably—shouldn't acknowledge that to the Chair, but let me quickly—

Mr. BIGGS. I noticed it.

Ms. JACKSON LEE. Let me quickly go to understanding how we distinguish the shoplifting persons, not indicating that that is not bad from organized crime, No. 1. Is there a way that local law enforcement and the State can collaborate with Federal law enforcement on these big organized circumstances?

So, start first with the shoplifting and organized retail crime, both bad, but that's getting a loaf of bread in the old days and something else. It's certainly not coming in with a gun and killing

an innocent person, such as Ms. Mohs—is that pronounced right—Ms. Mohs’ experience, which is dastardly and horrific.

Mr. FLYNN. So, the only way that we can ascertain whether or not there is a “higher up”—let’s use that phrase there for, as an example—is if one of the perpetrators talks. If a defense lawyer comes to me and says, hey, my client got picked up for stealing a hundred bucks’ worth of stuff, and they want to cooperate now and talk about who the higher-ups are, then we find out. Then we can also find out through other investigative tools. Unless we get some type of intelligence or cooperation from the boosters, it’s difficult to work our way up the food chain.

Ms. JACKSON LEE. Well, are you able to tell between shoplifting and organized—

Mr. BIGGS. The gentlelady’s time has expired.

Mr. FLYNN. Yes, we are able to tell from an individual who’s just using it for their own personal needs or if they are taking the merchandise and then giving it to someone or themselves sometimes putting it online for resale, we can tell a lot of times.

Ms. JACKSON LEE. All right. Mr. Chair, I do yield, but I will have some articles to submit and maybe one more question. I yield back, Mr. Chair.

Mr. BIGGS. Mr. Fry from South Carolina.

Mr. FRY. Thank you, Mr. Chair, for having this hearing today.

To our witnesses, thank you, Ms. Mohs. I’m always struck when we have people who are victims in crime, just in general, who come to this Committee, who testify. It’s incredibly brave of you to be here. We appreciate it. Thank you for sharing your son’s story with us.

We find ourselves in this perplexing situation since I’ve been here in 6 months that we are constantly looking at, whether it’s New York, whether it’s Washington, DC, in the Oversight Committee, we are talking about—and the attorneys on the panel talked about this pretty easily, the inability of district attorneys to prosecute crimes and enforce the laws that are on the books. We even had—in the case of New York, we even had Democrat city councilmen saying that they weren’t—that the District Attorney was refusing to do his job and has increased crime on the streets. Of course, we talk about, in this case, organized retail crime.

I criminals are winning in our society right now. They really are. There’s this wide gulf that exists that we want to play footsie and we want to play cute with law enforcement, but people are suffering, businesses are suffering, families are suffering.

Just in the district that I represent, the Myrtle Beach Police Department just a few years ago, along with Federal agents, had a task force that opened an investigation to organized retail crime, an estimated \$24,000 worth of new in-the-box merchandise, headphones, Roombas, power tools, nine rifles, seven shotguns, an ATV, another ATV, a John Deere, a lawnmower, E-Z golf cart—or excuse me, E-Z—GO golf cart, and seven trailers. This is just a drop in the bucket. This is just in Myrtle Beach, South Carolina. We see this time and time again.

That’s the problem, is that you guys hit on it very easily, which is these things happen and criminals think that they have a carte

blanche invitation to continue doing these things because there are no repercussions for the actions that they do.

Attorney General, I want to turn to you really quick. Last year, Congress passed the INFORM Consumers Act requiring online marketers to verify the identities of the majority of their sellers. We know that stolen goods appear in these marketplaces in large quantity. We hear from retailers constantly. The INFORM Act goes into effect at the end of this month.

How would this law help your office be more effective in prosecuting ORC cases?

Mr. KOBACH. I think the act will help. The majority of goods these days are being fenced—being stolen—sorry, being sold by the fences online on these various marketplaces online. So, requiring a higher level of certainty and knowing your supplier, I guess would be the right way to put it, is certainly going to help. Indeed, most of the criminal lead—well, I won't say most—many of the criminal leads that prosecutors do get are in the actual selling of the good online and using a number of methods to determine that this is likely the same good that was stolen from a Home Depot a month before or whatever.

So, the more we can learn about the transactions and those who are selling the goods online, the more tools we will have in the toolbox to bring these prosecutions, which need to—well, if we prosecute more cases, the—it's not rocket science—the problem will diminish if we increase the amount of prosecution.

Mr. FRY. In your office, do you coordinate right now with retailers on implementation of this to better understand how this new tool will build opportunities to prosecute these cases?

Mr. KOBACH. We coordinate with retailers a great deal already. We have not discussed this new tool yet, but I'm sure that we will be. The retailers are actually a very good source of information. Like Ms. Mohs' son, many of them have individuals whose sole job is to keep track of and try to deter and diminish the in-store theft. So, the retailers are an invaluable source in prosecuting.

Mr. FRY. Thank you. Just briefly, part—you know, of this—I look at this issue—part of this is maybe the—Lululemon fired their employees for going after somebody who was stealing, right. So, there are some corporate issues that are related to this. Part of this is the inability of district attorneys to do their job, quite frankly, and prosecute cases.

The task that we have, at least in Congress, is there—would it be helpful to have a Federal partner prosecute these cases across interstate lines? I'll leave that, Attorney General, or to the other lawyers on the panel.

Mr. KOBACH. Yes, I mentioned something about that point. I think we have to bring the maximum number of prosecutors to bear, period. That means reducing the threshold right now. There seems to be, at least in the middle part of the country, a \$250,000 threshold before the Feds. The prosecutors will be—in the U.S. attorney's offices will be interested. It would be better if they would be interested in interstate cases at a lower level.

In my State, we're bringing State prosecutors to bear so the burden doesn't just fall on county attorneys and district attorneys. Re-

sources to hire attorneys at all levels are important. We need more prosecution to occur.

Mr. FRY. Thank you, Mr. Chair. I'm out of time. I yield back.

Mr. BIGGS. Thank you.

The Ranking Member has some documents she wants to admit into the record.

Ms. JACKSON LEE. Thank you, Mr. Chair.

I ask unanimous consent to submit into the record, (1) a statement from Trevor Wagener, Chief Economist and Director of Research for the Computer and Communications Industry and (2) a September 23, 2021, article from *The Atlantic*, entitled, "The Great Shoplifting Freak-Out: Why is it so hard to figure out if America's enormous surge in theft is real?"

I ask unanimous consent.

Mr. BIGGS. Without objection.

Mr. BIGGS. Now, I'll recognize the gentlelady from Florida, Ms. Lee.

Ms. LEE. Thank you, Mr. Chair.

Florida is one of nearly three dozen States that have passed organized retail crime statutes. We've actually gone one step further by launching something called FORCE, which is the Florida Organized Retailers Crime Exchange, a task force and data base for police, prosecutors, and retailers to work together to organize—to identify organized retail theft rings. It's been our experience that communication among stakeholders, the private sector, law enforcement, both public and private, is really a key part of identifying and combatting these violent and costly crimes.

I would like to start with you Mr. is it Milhiser?

Mr. MILHISER. Yes.

Ms. LEE. All right. Mr. Milhiser, I know you too have a significant background as a former Federal prosecutor. You had mentioned this in your testimony, this same concept. Would you please elaborate on your experience and your observation on how those private partner collaborations with Federal law enforcement agencies can rid an important part of really combatting this problem?

Mr. MILHISER. Right. Well, there are examples that have been successful. If you look at human trafficking, drugs, OCDETF, when we attack kind of the gang problem and the cartels coming in from Mexico. So, the best way to attack it is to have as many people at the table all kind of pulling their weight and doing their job. So, we need local prosecutors there to prosecute, oftentimes, the bulk of the cases, but then also the Federal prosecutors there to get involved too.

Federal law enforcement oftentimes can help with the kind of technical aspects of these cases. If they're crossing State lines, using computers, oftentimes out of the country. These are international operations. So, you have the Secret Service and the FBI, and you have these other Federal law enforcement agencies that can use their expertise. Everyone working together collaboratively is the best way to attack the problem.

The only way it works is if everyone does their job and every part of person there. The Feds have to say, yes, we'll sit at the table, and we'll actually file charges. I spent a long time—and I would guess Mr. Flynn has this problem sometimes, too—so work-

ing with the Feds on cases sometimes they're like, hey, we're too busy, we don't want to file that. No, no, you're going to file that, because it's going to help what is best for the community.

So, everyone has to get together and sit down. How can we best attack the problem? Everybody has to carry their weight and do their job.

Ms. LEE. Now, you just touched on something that's very important there. The collaboration between those Federal law enforcement resources, but also local, and the important role of working together.

Would you describe for us the role of local law enforcement in that process? We've got the Feds at the table. They're providing expertise in resources. Describe for us the role, though, of the local on-the-ground law enforcement as well.

Mr. MILHISER. Well, a hundred percent, they are a big part of the equation. We look at law enforcement around the country, 85 percent of it is State, local, and Tribal. So, the Federal law enforcement is a small part of law enforcement in general in this country. So, those local individuals have to be used.

For a long time, I was a State court prosecutor and worked with those local sheriffs, worked with the local police, to help identify those criminals, help bring them to justice, help prosecute cases. So, they play an integral part. It cannot be law enforcement in their silos, whether it be FBI or DEA, in their silo, sheriffs, police in their silo. They have to be talking, they have to be coordinating to best attack the problem.

Ms. LEE. So on that subject, in the event that local law enforcement, whether it is a local district attorney, a local police chief, in the event that one of the individuals who should be at that table and part of that collaboration decides not to do their job, whether it is one of those soft-on-crime policies, a decision not to prosecute certain offenses, how does that affect the overall effectiveness of combatting criminal activity in our communities?

Mr. MILHISER. Well, it has a negative effect, I mean, when you don't have everybody pulling their weight and doing their job, especially the local prosecutor. So, if the local prosecutor is not willing to prosecute these cases, not willing to do their part, it has a negative effect.

I guess, then, the next question is, what do we do about that? I think one thing we do is call those prosecutors out. Now, it's difficult, obviously, in this forum, but it's for the community to become aware of it. I mentioned during my testimony an organization. I started the American Center for Law and Public Safety with U.S. attorneys from around the country. We have law enforcement, local prosecutors to do this very thing—to educate the public on what is a good prosecutor, what is needed, how can we have safe communities, and to call out those bad prosecutors.

Because people for years took for granted that their local prosecutor was going to do their job and prosecute cases. All of a sudden, they didn't, crime increased. They're like, oh, my gosh, what happened? So, we need to educate the public on what is a good prosecutor and assist those with resources. That's where the Federal government can come into play. There's often scarce resources for local prosecutors. They can assist in that way.

Ms. LEE. Thank you, sir.

Mr. Chair, I yield back.

Mr. BIGGS. Thank you.

I'm going to allow the Ranking Member, recognize her for one question. I know her, and she is capable of asking what we call in the trade a compound question.

Ms. JACKSON LEE. Or a running.

Mr. BIGGS. So, I'm trusting her that it's just one question.

Ms. JACKSON LEE. It is. It is.

Mr. BIGGS. Thank you, Madam.

Ms. JACKSON LEE. We thank you, to the Chair, for your kindness.

Attorney General Kobach, am I getting close to pronunciation, sir?

Mr. KOBACH. Kobach, yes.

Ms. JACKSON LEE. Thank you so very much. I've studied this issue because the Chair was kind enough to bring it to our attention. So, we found a recent workshop on crime trends in Kansas, Wichita, with your Police Chief, Joe Sullivan, that said that among larger national chains, Wichita ranks among the worst retail theft. He went on to say that getting these people into treatment would have an unbelievable impact on organized retail theft. Because I think it ties into what Mr. Flynn had said, because the vast majority of the thieves, they're like agents, workers commit these crimes to sell the stolen items and buy drugs or get them to their handler.

So, do you agree with Chief Sullivan's assessment? While this is not the only answer, could we not reduce the prevalence of these crimes by addressing as a component the current public health crisis of drug addiction? So, these people are used—I say mules. There's a lot of terminology to utilize in this instance.

Mr. KOBACH. I do agree with what the Wichita police chief said. The boosters who are drug addicted are recruited so they can support their habits. They're recruited by the fences, at least in Kansas, who tend to be the ones who are organizing these retail crime networks. They're given assignments by the fence, what to go steal next, where to steal it. They are used as mules. You can also use that analogy in these networks.

So, certainly, if there are fewer drug-addicted people recruitable, then that would reduce the total pool of recruits to be boosters. Although, I don't think that alone would solve the problem, but it certainly would be a component of the problem.

Ms. JACKSON LEE. Well, we certainly want to get rid of the fences for sure.

Mr. KOBACH. Yes.

Ms. JACKSON LEE. Thank you so very much.

Thank you. I yield back.

Mr. BIGGS. Thank you. Thank you, Ms. Jackson Lee.

I will recognize myself for five minutes of questioning.

Ms. Mohs, again, thank you for coming in and sharing your son's story and his life with us, and bringing your father with you as well.

I just want to make sure that everyone knows, I want to make clear, the individual who murdered your son was—if I understood you right, was on probation and had been on probation for more than 10 years. Is that fair to say?

Ms. MOHS. My understanding was that her probation had been revoked, and she was in violation as of 2012—I'm sorry, not revoked, but in violation of, and she was out on the street.

Mr. BIGGS. I see. A similar situation with the getaway driver?

Ms. MOHS. The getaway driver had been incarcerated for a home invasion robbery and was released during COVID in California's attempt to reduce inmates.

Mr. BIGGS. All right. Well, thank you. You described it correctly. It was a system failure. There was a law on the books. She was not to be a possessor. Somehow, she had a gun and she used it violently. That's a system failure, in my opinion. We hope that we can learn and go forward and change the system where we need to make changes. Thank you for sharing that.

I want to get to something that you testified to, Attorney General Kobach, and it's right on my experience with other things, and that is you talked about the threshold. For instance, the U.S. attorney saying if it's an interstate transport of thefts, of stolen goods, it's 250,000 bucks. In Arizona, the U.S. attorney has basically said they're not going to carry—they're not going to charge, for instance, mules carrying pot, unless they're carrying several hundred pounds in the desert, and they actually still have it on their person when they're apprehended.

How does the raising of those thresholds impede the actual enforcement of our law?

Mr. KOBACH. It certainly does, and it's amazing. I think one of the things that has surprised me about all this is how savvy and how quickly informed the organized retail crime networks are. They learn very quickly where their thresholds are. Now, some of them are statutory thresholds as to where the felony level is, but they will learn what they can get away with.

In an interstate case, that's where the Feds can come in and help because, as I mentioned, there's a lack of prosecutorial resources generally. If we can get the Feds involved in a lower level, that would greatly increase our resources. Even looking within the State, like in Kansas where we're looking where we can help, the local prosecutors, they have a lot—they have a huge pile of cases and a lack of resources to address those cases. They may not recognize—and this is where Ms. Lee's question is particularly important—they may not have enough information to recognize that the two thefts at this Home Depot were committed by the same network that, in the neighboring county, did five thefts at a Lowe's and a Walmart, et cetera.

So, by having this information sharing, which we're doing in Kansas with the Kansas Bureau of Investigation, we can put two and two together, connect the dots, and realize that this isn't just a theft of \$900 at one store, it's part of a much larger network that's stolen \$200,000. That gets the attention not only of local attorney—prosecuting attorneys, but certainly that's where our State resources come into play as well.

Mr. BIGGS. So, I am intrigued by the notion that there are different levels. I agree with that, having been in the judicial—actually prosecuting—I prosecuted some shoplift cases. They were never—we rarely saw an organization. We saw small single one-offs. Now, we see these organizations.

I would venture to say that not every booster is actually necessarily a drug addict. Some of them are engaged in criminal conduct. I wanted your opinion on that, Mr. Milhiser.

Mr. MILHISER. Well, I guess to follow what Ms. Jackson Lee said, when we talk about whether it's somebody that's homeless, there's all kinds of issues that these individuals that are arrested have. Homeless, substance abuse. When we let them out of jail or prison, we need to as a society and a good prosecutor does, put them in the best position not to re-offend, right. We want to reduce recidivism.

Mr. BIGGS. What does recidivism rank?

Mr. MILHISER. Oh, it's incredibly high. I think we would all say that it's more than half. They get out and they re-offend. Especially if they go back to that same environment they were in, they're going to re-offend.

So, what do we have to do? We have to look and say, employment, housing, substance abuse, and mental health treatment. Those four things. Look at that, and what can we do? That's where we talk about collaboration. It's not just law enforcement. It is other government services. It's not for-profits. It's all those individuals in a community that can help when these individuals get out to keep them crime free.

Mr. BIGGS. Well, thank you.

I again thank the witnesses. My time has expired.

I appreciate every Member of the Committee being here and participating.

Again, this is a real serious, serious issue that needs, in my opinion, continued elevation of notoriety so people will respond, particularly at the State and local levels. The Federal level, we have the things we should be doing, but we certainly want to encourage our State and local levels whose resources are stretched thin to actually enforce the law and really help out here.

Thanks again for being here. With that, we are adjourned.

[Whereupon, at 3:42 p.m., the Subcommittee was adjourned.]

The record for this hearing by the Members of the Subcommittee on Crime and Federal Government Surveillance is available at: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=116093>.

